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# *Backgrounder*

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## **Northern Gateway Pipeline Project Joint Review Panel Agreement and Terms of Reference**

The Canadian Environmental Assessment Agency (the Agency) and the National Energy Board (NEB) issued the Joint Review Panel Agreement (the Agreement), including the Terms of Reference, for the environmental and regulatory review of the proposed Northern Gateway Pipeline Project.

The Agreement was signed by the Minister of the Environment and the chair of the NEB. The Agreement includes the process for appointing the Panel members, the proposed Terms of Reference for the Panel, the role the Panel will play in the Crown's overall approach to consultation with Aboriginal groups, and procedures for conducting the joint review process including public hearings.

### **Comments on the Draft Joint Review Panel Agreement**

A public comment period on the draft Agreement was held between February 9 and April 14, 2009. Comments were received from the public, Aboriginal groups and other interested parties. All comments were carefully considered before the Agreement was finalized.

Some of the comments received concerned items that were already captured within the Agreement and Terms of Reference. Other comments led to changes in the Agreement, such as comments received on marine traffic and the need for increased explanation of the joint review panel process.

### **Issues to be Considered by the Joint Review Panel**

The Joint Review Panel (the Panel) has a broad mandate under both the *National Energy Board Act* and the *Canadian Environmental Assessment Act* to consider whether the Northern Gateway Pipeline Project is likely to cause significant adverse environmental effects and if it is in the public interest. The public and Aboriginal groups are encouraged to bring their views on the project forward to the Panel. There will be opportunities for the public and Aboriginal groups to provide input on the List of Issues to be considered by the Panel. Information on how to submit input will be available when the Panel issues its Hearing Order.

### **Marine Traffic**

Many comments submitted on the draft Agreement focused on the issue of marine traffic and the perception that there is a moratorium on tanker traffic in the coast waters of British Columbia (B.C.). It is the Government of Canada's position that there is presently no moratorium on tanker traffic in the coast waters of B.C. Tanker traffic currently exists in the Ports of Vancouver, Kitimat and Prince Rupert.

The Agreement defines the boundaries for the assessment of potential environmental effects associated with marine transportation for this project. The boundary area is:

- the Confined Channel Assessment Area, as defined by the proponent, which includes the marine and shoreline area of Kitimat Arm, Douglas Channel to Camano Sound, and Principe Channel to Browning Entrance;
- Hecate Strait; and
- the proposed shipping routes to be used for the project that are within the 12 nautical mile limit of the Territorial Sea of Canada.

### **Joint Review Panel Process**

The Agency and the NEB also received requests for additional information on the joint review panel process. To provide a better understanding of the process, a new Part IV section has been added to the Terms of Reference. The joint review process will provide the public and Aboriginal groups with an opportunity to make their views known in an open and transparent forum. The Hearing Order issued by the Panel will provide a detailed description of the hearing process. After conclusion of the review process, the Panel will prepare a Panel Report setting out its conclusions and recommendations relating to the environmental assessment of the project.

### **Information Requirements**

To bring more clarity to the type and amount of information the proponent should consider in preparing its application, the Terms of Reference were revised to refer to the NEB's Filing Manual. In addition, a Scope of Factors document was prepared by the Agency. If the Panel feels information submitted by the proponent is insufficient to assess the environmental effects of the project, the proponent will be required to provide more evidence to satisfy the Panel.

### **Aboriginal Matters**

In response to questions on how the Crown's duty to consult will be met, the Agreement was revised to include details on the information the Panel will receive and include in its report regarding the adverse impacts that the project may have on potential or established Aboriginal and treaty rights.

### **Regulatory Decisions**

Following the government response on the Panel Report, the Panel pursuant to the *National Energy Board Act* will determine if the project should proceed and under which conditions. The other federal responsible authorities for the project will also take a course of action according to the government response on the Panel Report.

A copy of the Agreement, including the Terms of Reference, as well as additional information on the project are available on the Agency's website at [www.ceaa-acee.gc.ca](http://www.ceaa-acee.gc.ca) , under reference number 06-05-21799, and on the NEB's website at [www.neb-one.gc.ca](http://www.neb-one.gc.ca).